



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MARTIN J. BENZING, et al.,

Plaintiffs,

- against -

TULLY CONSTRUCTION CO., INC., et al.,

Defendants.  
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21-CV-5315 (PGG) (RWL)

**ORDER**

**ROBERT W. LEHRBURGER, United States Magistrate Judge.**

This order resolves Defendants' letter motion at Dkt. 104 seeking to compel certain information from Plaintiffs and requesting a discovery conference. Plaintiffs have responded at Dkt. 105 and requests imposition of fees and costs for having to submit their opposition. The request for a conference is denied. As for Defendants' demands:

Demand 1 (authorizations) is denied without prejudice as moot in light of Plaintiffs' representations about having provided the authorizations at issue.

Demand 2 (providers) is granted insofar as Plaintiffs shall provide a sworn statement, by February 9, 2024, from either counsel or Plaintiffs, that Plaintiffs have "conduct[ed] a due diligent search" and either produce any further responsive information or represent that no further responsive information has been found.

Demand 3 (photo metadata/information) is granted insofar as Plaintiffs shall provide a sworn statement, by February 9, 2024, from either counsel or Plaintiffs, that Plaintiffs have conducted "a further due diligent search" and either produce any additional responsive information or represent that no further information has been found.

Demand 4 (texts/additional records re pain, et al.) is granted insofar as Plaintiffs shall provide a sworn statement, by February 9, 2024, from either counsel or Plaintiffs,

that Plaintiffs have “conduct[ed] a search” and either produce any additional responsive information or represent that no further information has been found.

Demands 5 and 7 (goals, progress, etc.) are granted insofar as Plaintiffs shall provide a sworn statement, by February 9, 2024, from either counsel or Plaintiffs, that Plaintiffs have “conduct[ed] a search” and either produce any additional responsive information or represent that no further information has been found.

Demand 29 (additional tax returns) is granted insofar as Plaintiffs shall provide a sworn statement, by February 9, 2024, from either counsel or Plaintiffs, that Plaintiffs are not in possession of any other IRS tax returns or transcripts other than the previously produced.

In short, Plaintiffs shall adhere to and confirm what they agreed to do in the Stipulation and Order at Dkt. 101. Defendants are cautioned not to make any further applications without properly meeting and conferring.

Plaintiffs’ request for fees and costs is denied.

The Clerk of Court is respectfully directed to terminate the letter motion at Dkt. 104.

SO ORDERED.

A handwritten signature in black ink, appearing to read 'R. Lehrburger', with a long horizontal flourish extending to the right.

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ROBERT W. LEHRBURGER  
UNITED STATES MAGISTRATE JUDGE

Dated: January 24, 2024  
New York, New York

Copies transmitted this date to all counsel of record.